

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

TRACY K. ORCUTT,

Plaintiff,

vs.

DAWSON COUNTY PROBATION  
AND PAROLE, et al.,

Defendants.

CV 24-11-BLG-DWM

ORDER

Plaintiff Tracy Orcutt filed a Complaint related to his medical treatment at Dawson County Detention Facility (“DCCF”) in Glendive, Montana (Doc. 1). Orcutt’s Complaint failed to state a federal claim for relief, and he was given the opportunity to amend. Orcutt filed an Amended Complaint that also failed to state a claim. (Doc. 8.) Orcutt was given a third chance, but his Second Amended Complaint also fails to state a claim and is dismissed.

**ANALYSIS**

**A. Parties**

Orcutt is proceeding without counsel and in forma pauperis. His Amended Complaint names as defendants Ms. Zody and Mr. Kaiser of Dawson County Probation and Parole, Correctional Officers Olsen and Kessel, and unknown arresting officer, Dawson County Sheriff’s Department. (Doc. 12 at 2 - 3.)

**B. Analysis**

As stated in prior Orders, Orcutt alleges that he had medical issues during his arrest and upon his arrival “in the intake area” that have gone untreated. (Doc. 12 at 5.) Presumably this was his arrival at Dawson County Detention Center, though he also mentions the START program. (*Id.* at 7.) He also states that, prior to his arrest, he lost consciousness and fell and hit his head. (Doc. 12 at 5.) He spent 30 to 45 minutes sitting until he thought he could drive. Orcutt says nothing about who arrested him or how. He says nothing about why he was arrested, though he does refer to a 72-hour hold. *Id.* He does not say who saw him in his compromised condition, or how someone disregarded his need for help. Orcutt fails to state sufficient facts to provide notice to any particular defendant. He does not identify a person or persons who knew he needed medical treatment and failed to provide it. He has failed to tie any person to an action that shows a disregard of his medical need. Orcutt has failed to state a claim for relief.

### **CONCLUSION**

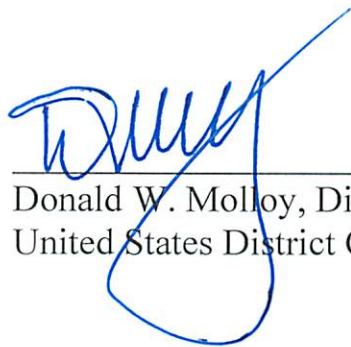
The Court has considered whether Orcutt’s Complaint is frivolous, malicious, fail to state a claim, or seek solely monetary relief from a defendant who is immune. *See* 28 U.S.C. §§ 1915(e)(2), 1915A(b). Orcutt has amended his Complaint twice and failed to state a claim.

The dismissal of Orcutt’s Second Amended Complaint counts as a “strike” under the “3-strikes” provision of 28 U.S.C. § 1915(g).

Based upon the foregoing, IT IS ORDERED that:

1. This matter is DISMISSED. The Clerk of Court is directed to enter judgment pursuant to Fed. R. Civ. P. 58.
2. The Clerk of Court is directed to have the docket reflect that the filing of this matter counts as a strike against Orcutt.

DATED this 30 day of July, 2024.



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Donald W. Molloy, District Judge  
United States District Court